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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,517	07/27/2000	Gerald R. Koefelda	RPC 0506	9474

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 05/07/2003

70

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance
With 37 CFR 1.192(c)**

Application No.

09/626,517

Applicant(s)

KOEFELDA ET AL. *Ch*

Examiner

Joseph C. Merek

Art Unit

3727

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 18 February 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENTIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☒ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☐ Other (including any explanation in support of the above items):

See Continuation Sheet

Lee Young
LEE YOUNG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

Continuation of 9. Other (including any explanation in support of the above items): Appellant asserts that Rehrig Pacific Company, i.e. the assignee of the application, is the real party in interest. There is no assignment in the application. The rejection of claims 1, 12, 28, and 29 over Apps '819 has not been argued. Moreover, appellant asserts that claims 1, 12, 28, and 29 are independently patentable of the other groups of claims but does not provide arguments in support of this allegation. The rejection of claims 1 and 12 over Rehrig "Splash Crate" has not been argued. Moreover, appellant asserts that claims 1 and 12 are independently patentable of the other groups but does not provide arguments in support of this allegation. Appellant has only set forth the claimed differences as the arguments that groups of claims are independently from other groups of claims. MPEP 1206 (c) (7) states : (7) Grouping of claims. For each ground of rejection which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8) of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.